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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,661	08/07/2003	Roberto Teran, Jr.	FGT 1832 PA	1660
28549	7590	05/04/2006	EXAMINER	
ARTZ & ARTZ, P.C. 28333 TELEGRAPH ROAD, SUITE 250 SOUTHFIELD, MI 48034			CAVALLARI, DANIEL J	
			ART UNIT	PAPER NUMBER
			2836	

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/604,661	TERAN, JR. ET AL.	
	Examiner	Art Unit	
	Daniel J. Cavallari	2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7, 8 and 10-22 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 8 and 10-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The examiner acknowledges a submission of the amendment filed on 2/16/2006. The amendments to claims 1, 3, 10, 11, 14, & 15, cancellation of claims 6 & 9 and new claims 21 & 22 are accepted.

Response to Arguments

Applicant's arguments with respect to claims 1-5, 7, 8, & 10-20 have been considered but are moot in view of the new ground(s) of rejection.

The 112 rejection of Claim 11 has been withdrawn in view of the amendment.

Applicant's arguments (See Remarks, Pages 6-7) with respect to the 112 rejections of claims 17 & 19 have been considered and are persuasive. The previously made 112 rejections of claims 17 & 19 have been withdrawn.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1 & 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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In regard to Claim 1

- The limitation of "...said controller functions comprising non-idle air valve related functions" is unclear. It is unclear what constitutes "non-idle air valve related functions" The claim will be examined as best understood to mean "...operating an air valve in a temporary position more restrictive than the air valve position at idle."

In regard to Claim 3

- It is unclear what constitutes a "non-idle air valve throttle-controlled device". The claim will be examined as best understood to mean a device that operating at other than the idle position.

In regard to Claims 3 & 10

- Claims 3 & 10 recite the limitation "said throttle-controlled device" however "a throttle controlled device" is not previously disclosed. The examiner notes that the newly amended claim 3 recites an "non-idle air valve throttle-controlled device" and the applicant should reference the device as such if this was the device intended. The claim will be examined assuming the applicant meant to refer to the non-idle air valve throttle-controlled device. There is insufficient antecedent basis for this limitation in the claim.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claim 1-3, 10, 14, 21, & 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Slopsema et al. (US 2002/0179031 A1).

Slopsema et al. (hereinafter referred to as Slopsema) teaches:

In regard to Claim 1

- A vehicle shutdown system for a non-hybrid vehicle having an internal combustion engine (See Paragraph 10).
- An ignition enabling device (32) with an on and off state which enables ignition of the engine (See Figures 1 and 2 & Paragraph 11).
- An engine controller (20) having a plurality of functions (See Paragraph 13) and being coupled to the ignition enabling device (32) (See Figure 1).
- The engine controller (20) temporarily maintaining operation of at least a portion of the controller functions when the ignition enabling device is switched to the an off state, the controller functions comprising a non-idle air valve related function,

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read on by step (56) of Figure 2 in which the throttle is adjusted to substantially reduce airflow (See Paragraphs 15-17).

In regard to Claim 2

- The plurality of functions comprising at least electronic throttle control (See Paragraph 17).

In regard to Claims 3 & 21

- A non-idle air valve throttle-controlled device, read on by the throttle (Step 56), the engine controller (20) electronically controlling the non-idle air valve throttle controller device at least temporarily preventing shutdown of electronic throttle control (Step 58) when the ignition-enabling device (32) is switched off (Step 52) (See Figure 2) in order to reduce noise and vibration (shudder) during engine shutdown (See Paragraphs 3-4).

In regard to Claim 10

- The controller adjusts a position of the throttle controlled device to be more air flow restrictive, without closing off the flow of air, than that of said throttle-controlled device in a default position when the ignition-enabling device (32) is switched off (See Paragraphs 15-17).

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In regard to Claim 14

- A vehicle shutdown system for a non-hybrid vehicle having an internal combustion engine (See Paragraph 10).
- An ignition enabling device (32) with an on and off state which enables ignition of the engine (See Figures 1 and 2 & Paragraph 11).
- An engine controller (20) having a plurality of functions (See Paragraph 13) and being coupled to the ignition enabling device (32) (See Figure 1).
- The engine controller (20) temporarily maintaining operation of at least a portion of the controller functions when the ignition enabling device is switched to the an off state, the controller functions comprising a non-idle air valve related function, read on by step (56) of Figure 2 in which the throttle is adjusted to substantially reduce airflow (See Paragraphs 15-17).
- A non-idle air valve throttle-controlled device, read on by the throttle (Step 56), the engine controller (20) electronically controlling the non-idle air valve throttle controller device at least temporarily preventing shutdown of electronic throttle control (Step 58) when the ignition-enabling device (32) is switched off (Step 52) (See Figure 2).

In regard to Claim 22

- Adjusting a position of the throttle a position of the throttle to further restrict the flow of air over a default position, read on by the idle position, in which the engine

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speed is approximately zero, as is the condition when the engine is in idle (See Paragraph 14).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al. & Boggs et al. (US 2002/0165660).

In regard to Claim 4

Incorporating all arguments above, Slopsema teaches adjusting the fuel injection via the controller (20) to terminate operation of the engine (See Paragraph 13) but fails to explicitly teach a switch coupled to the ignition enabling device and a fuel supply system.

Boggs et al. (hereinafter referred to as Boggs) teaches a system comprising a switch, read on by the vapor management valve, coupled to the ignition-enabling device and a fuel supply system wherein the engine controller (40 & 46) disable the fuel supply system upon the ignition-enabling device, "key-off", switched to the OFF state (See Figure 4 & Paragraph 24 & 38)

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It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the switch coupled to the ignition enabling device and a fuel supply system as taught by Boggs into the vehicle shutdown system of Slopsema. The motivation would have been to stop purge vapor flow (See Boggs, Paragraph 24).

In regard to Claim 13

Incorporating all arguments above of the vehicle shutdown system taught by Slopsema, Slopsema is silent as to the connection between the accelerator pedal and the throttle.

Boggs teaches an engine controller, read on by VSC (40) and ECU (46) having a plurality of functions and being coupled to the ignition-enabling device and temporarily maintaining operation of a portion of controller functions, including an electronic throttle control function (drive-by-wire system) (See Figure 1 & Paragraph 15, 24, & 35-38).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the drive by wire system taught by Boggs into the vehicle of Slopsema. The motivation would have been to take smooth out fuel delivery and acceleration and improve fuel economy and performance of the vehicle over the traditional method of connecting a cable between the acceleration pedal and throttle.

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Claims 5 & 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al. and Page et al. (US 6,499,455).

In regard to Claim 5

Slopsema teaches the engine controller (20) enabling devices when the ignition enabling device is in an ON state and at least temporarily disabling components when the enabling device is in an OFF state (See Figure 2 & Paragraphs 15-18) but fails to explicitly teach a switch coupled to the controller for performing this function.

Page et al. teaches a drive by wire system utilizing a power switch, relay (58), in which to control an air control valve (42) (See Column 2, Lines 61-65). Page et al. further teaches the switch (58) being closed when the ignition switch is closed and temporarily preventing disablement of the switch when the ignition switch is turned off (See Column 3, Lines 12-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the throttle control taught by Page et al. into the vehicle shutdown system taught by Slopsema utilizing a relay and temporarily maintaining the relay in the closed position when the ignition switch is put in the off position. The motivation would have been to provide a control means well known in the art for controlling the air control valve in which Slopsema is silent (See Slopsema, Paragraph 16).

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In regard to Claim 7

Slopsema teaches controlling a throttle position (See Paragraph 11) but fails to explicitly teach a throttle position sensor. Page et al. teaches a sensor, read on by circuit (78), that senses the transition of voltage which causes an actuator to adjust or maintain an air control valve at a predetermined open position (See Column 4, Lines 32-50).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the throttle actuator position sensor taught by Page et al. into the vehicle shutdown system of Slopsema. The motivation would have been to provide a reliable and accurate control means for the throttle not explicitly taught by Slopsema.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al. and Hawkins (US 2004/0262995A1).

Incorporating all arguments above, Slopsema teaches an "ignition status" signal (32) (See Figure 1) but fails to explicitly teach an ignition start key assembly.

Hawkins teaches an ignition start key assembly (5) attached to a controller (62) used to control the engine of a vehicle (See Paragraphs 23-26).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the ignition start key assembly taught by Hawkins into the vehicle shutdown system of Slopsema. The motivation would have been to

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secure the ignition from unauthorized use by use of the key and a device well known and utilized in the automobile industry for controlling the ignition of a vehicle.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al. and Fukushima et al. (US 2003/0056753 A1).

Slopsema teaches a throttle adjusted for less than 10 percent of the idle speed flow rate but fails to explicitly teach a throttle angle of 1-2 degrees, approximately 1.5 degrees.

Fukushima et al. (hereinafter referred to as Fukushima) teaches an engine throttle control in which the engine throttle is set to 2 degrees (See Paragraphs 113-115).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to set the throttle position of Slopsema in order to restrict the air flow as desired. The motivation would have been to obtain a desired decrease in air flow as taught by Slopsema and to prevent the valve from sticking (See Fukushima, Paragraph 113).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al. and Bakholdin et al. (US 2002/0157881)

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Incorporating all arguments above of the vehicle shutdown system taught by Slopsema et al., Slopsema fails to teach a safety monitor which monitors the states of the system during shutdown.

Bakholdin et al. teaches a safety monitor as part of CPU (332) (See Paragraph 120) in which during shutdown of the engine, the states are monitored for a fault and the system continues to operate unless the fault exceeds a predetermined severity level.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the safety monitor taught by Bakholdin et al. in which to monitor the shut-down taught by Slopsema in which the operational status of the various devices were monitored, as taught by Bakholdin et al.

The motivation would have been to protect the system and it's occupants by identifying dangerous conditions during shutdown.

Claims 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al. and Flick (US 2003/0141986 A1).

In regard to Claims 15 & 16

Slopsema teaches an engine controller (20) temporarily maintaining operation of at least a portion of the controller functions when the ignition enabling device is switched to the an off state, the controller functions comprising a non-idle air valve related function, read on by step (56) of Figure 2 in which the throttle is adjusted to substantially reduce airflow (See Paragraphs 15-17) but fails to explicitly teach the

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controller functions selected from a camshaft position function, a crankshaft position function, or a remote start function.

Flick teaches a remote start a vehicle control system incorporating a controller (25) which controls the operation of a remote starter on a vehicle (See Paragraph 47).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the remote starter and remote start functionality of the controller taught by Flick into the vehicle shutdown system taught by Slopsema. The motivation would have been to provide the driver with a remote starter making it easier to start the vehicle.

In regard to Claim 17

Slopsema further teaches:

- Adjusting a position of the throttle a position of the throttle to further restrict the flow of air over a default position, read on by the idle position, in which the engine speed is approximately zero, as is the condition when the engine is in idle (See Paragraph 14).

Claims 18 & 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al., Flick, & Page et al.

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In regard to Claim 18

Incorporating all arguments above, Slopsema fails to explicitly teach disabling a controller as part of the shut-down method which includes enabling the throttle-controlled device to be in the default position.

Page teaches shutting down a controller, read on by microprocessor (62), after a predetermined time has elapsed after engine shutdown (See Column 4, Lines 60-64).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the power disabling feature taught by Page into the shutdown system of Slopsema in order to disable part of the controller (20) after shutdown. The motivation would have been to conserve power by disconnecting power to the controllers.

In regard to Claim 20

Slopsema teaches the engine controller (20) enabling devices when the ignition enabling device is in an ON state and at least temporarily disabling components when the enabling device is in an OFF state (See Figure 2 & Paragraphs 15-18) but fails to explicitly teach a switch coupled to the controller for performing this function.

Page et al. teaches a drive by wire system utilizing a power switch, relay (58), in which to control an air control valve (42) (See Column 2, Lines 61-65). Page et al. further teaches the switch (58) being closed when the ignition switch is closed and temporarily preventing disablement of the switch when the ignition switch is turned off (See Column 3, Lines 12-60).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the throttle control taught by Page et al. into the vehicle shutdown system taught by Slopsema utilizing a relay and temporarily maintaining the relay in the closed position when the ignition switch is put in the off position. The motivation would have been to provide a control means well known in the art for controlling the air control valve in which Slopsema is silent (See Slopsema, Paragraph 16).

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Slopsema et al., Flick, and Fukushima et al.

Slopsema teaches a throttle adjusted for less than 10 percent of the idle speed flow rate but fails to explicitly teach a throttle angle of 1-2 degrees, approximately 1.5 degrees.

Fukushima et al. (hereinafter referred to as Fukushima) teaches an engine throttle control in which the engine throttle is set to 2 degrees (See Paragraphs 113-115).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to set the throttle position of Slopsema in order to restrict the air flow as desired. The motivation would have been to obtain a desired decrease in air

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flow as taught by Slopsema and to prevent the valve from sticking (See Fukushima, Paragraph 113).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Cavallari whose telephone number is (571)272-8541. The examiner can normally be reached on Monday-Friday 8:30-5:00.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on (571)272-2800 x36. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Daniel Cavallari

April 20, 2006



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